

## REMARKS

### INTRODUCTION:

In accordance with the foregoing, claims 1 and 4 have been amended, and claims 2, 3, 13-19 and 22-25 have been cancelled. Claims 11, 12, 20, 21 and 26-30 have been previously withdrawn. Therefore, claims 1, 4-12, 20, 21 and 26-30 are pending, and claims 1 and 4-10 are under consideration, which is respectfully requested.

No new features and/or new matter have been added and accordingly, entry and approval of claim 1 is respectfully requested.

### Claim Objections

The Office Action objects to claims 13, 16, 18, 19, and 22 are objected to for depending from a withdrawn base claim. These objections have been resolved as the objected to claims have been canceled.

### Rejection Under 35 U.S.C. § 102

The Office Action rejects claim 1 under 35 U.S.C. § 102(b) as being anticipated by Oshimura et al. (EP 0826766). The Office Action asserts that Oshimura et al. teaches components (A), (B), and (C) of the present invention, and that these components may be combined to create a wash composition. See Office Action at pages 3-4 and Oshimura et al. Abstract.

The Office Action further asserts that Oshimura et al. discloses "N-long-chain-acyl acidic amino acid[s]" (see abstract; page 3, lines 49-54), that such acidic amino acids can be derived from aspartic acid, and that such acidic amino acids can have an acyl group having from 8-22 carbons (see page 3, lines 54-56). The Office Action argues that such an acidic amino acid corresponds to component (A).

The Office Action asserts that Oshimura et al. discloses dipeptides corresponding to component (B) of claim 1. Specifically, the Office Action asserts that the N-(N'-long-chain-acyl-alpha-aspartyl) aspartic acid of Oshimura et al. encompasses component (B). The Examiner apparently believes that formula (1) and formula (2) disclosed in Oshimura et al. correspond with formula (2) and formula (3) of claim 1.

For component (C), the Office Action asserts that Oshimura et al. discloses a wash composition containing surface active agents including higher fatty acids or salts (see page 4, lines 38-42).

Despite the arguments set forth in the Office Action, Oshimura et al. does not anticipate claim 1 of the present invention. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131. Oshimura et al. does not teach each and every element of claim 1.

Independent claim 1 has been amended to recite that for component (B), both formula (2) and formula (3) are required and that the weight ratio between formula (2) and formula (3) is 1:3 to 3:1. As such, independent claim 1 now includes the limitations of cancelled dependent claims 2 and 3. The Examiner addresses the limitations of these dependent claims on pages 5 and 6 of the Office Action. The Examiner cites Table 13 on page 13 of Oshimura et al. as disclosing a combination of glutamate dipeptides. However, as the Examiner apparently recognizes, the claims are not directed to a combination of glutamate dipeptides. Moreover, page 3, lines 27 and 28 of Oshimura et al. clearly convey that for aspartic acid residues, a combination of formula (2) and formula (3) of claim 1 should not be used. Specifically, the reference states (with emphasis added), "[w]hen X is an aspartic acid residue, a peptide linkage with Y through a carbonyl group may be given through either an  $\alpha$ -carbonyl group or a  $\beta$ -carbonyl group."

The production examples of Tables 3 and 7 in Oshimura et al. use an N-(N'-long-chain-acyl- $\alpha$ -aspartyl)aspartic acid, which may correspond to claim 1 formula (3). However, none of these examples uses a compound corresponding to claim 1 formula (2). Amended claim 1 clearly requires both formula (2) and formula (3) forms of component (B). Oshimura et al. uses only formula (3).

Oshimura et al. never suggests that both the compounds of claim 1 formula (2) and claim 1 formula (3) are essential. Oshimura et al. does not provide any reasons for why one skilled in the art would have been motivated to include both formula (2) and formula (3) compounds.

Further, amended claim 1 requires that the compounds of formula (2) and formula (3) be present in a weight ratio of from 1:3 to 3:1. Oshimura et al. does not anywhere disclose or suggest a weight ratio range of dipeptides.

Claim 1 also requires that the R group must be the same in components (A), (B), and (C). Oshimura et al. contains no examples where the formula (2) and formula (3) forms of component (B) are included and where all components have identical R groups, as required by amended claim 1. Further, Oshimura et al. discloses no reason why one skilled in the art would have been motivated to create a composition with identical R groups, much less identical R groups and both formula (2) and formula (3) forms of component (B). This is evidenced in that

Oshimura et al. does not anywhere describe an R group for the higher fatty acids, and Oshimura et al. uses different language to describe the R groups for the components corresponding to (A) and (B) of the present invention. See Oshimura et al. at page 3, lines 17 and 56.

Therefore, the present invention is novel over Oshimura et al. The rejection of amended claim 1, and all claims depending from allowable amended claim 1, should be withdrawn.

### Rejection under 35 U.S.C. § 103

The Office Action rejects claims 1-10, 13-19 and 22-25 under 35 U.S.C. § 103 as being unpatentable over Oshimura et al. As claims 2, 3, 13-19 and 22-25 have been cancelled, these rejections have been resolved. For the remaining claims under consideration, the non-obviousness of independent claim 1 is presented below.

The Office Action admits that Oshimura et al. does not disclose the claimed features discussed above, but asserts that these features would have been obvious. Applicants disagree. The disclosure of the present application demonstrates the excellent properties which may be attained by a composition made according to amended claim 1. These advantageous effects are shown in Supplementary Table 1 and Supplementary Table 2 below.

Supplementary Table 1 illustrates the excellent properties of a composition having both formula (2) and formula (3) forms of N-acyl-diaspartic acid at a ratio within the claimed range of from 1:3 to 3:1. Examples 8 and 9 of the present application, having both forms in the claimed range, are compared with Comparative Examples 2, 9 and 10 and *former* Examples 3 and 4.

As can be seen, both a refreshed feeling and foaming power were insufficient in Comparative Examples 2 and 10. Similar to Oshimura et al., both Comparative Examples used only formula (3) diaspartic acid. The refreshed feeling and foaming power were also insufficient for *former* Examples 3 and 4. These examples included both formula (2) and formula (3) diaspartic acid, but at a ratio outside the claimed range of 1:3 to 3:1.

*Supplementary Table 1 (Reproduced from Table 1)*

	Foaming Power	Refreshed Feeling	Stretched Feeling	Formulas						
				(1)	:	(2)	:	(3)	:	(4)
Example 8	7	6.8	6.7	96	:	0.5	:	0.5	:	3
Example 9	7	6.9	6.7	90	:	2.5	:	2.5	:	5

<b>Comparative Example 2</b>	6	2.3	4.1	95	:	0	:	5	:	0
<b>Comparative Example 10</b>	2	1.1	6.2	95	:	0	:	2	:	3
<b>Comparative Example 9</b>	2	1.2	6.2	95	:	2	:	0	:	3
<b>Former Example 3</b>	5	5.5	5.8	80	:	3	:	14	:	3
<b>Former Example 4</b>	5	5.7	6.8	80	:	14	:	3	:	3

Supplementary Table 2 illustrates the excellent properties resulting from a composition wherein each component has the same R group. The Supplementary Table 2 examples are compared in pairs: Example 8 is compared with Comparative Example 5, and Example 9 is compared with Comparative Example 6. The examples of each pair share identical (1):(2):(3):(4) compositional ratios. However, Comparative Examples 5 and 6 use different R groups (lauroyl + myristoyl), whereas Examples 8 and 9 use the same R group (all lauroyl).

*Supplementary Table 2 (Reproduced from Table 1)*

	<b>Foaming Power</b>	<b>Refreshed Feeling</b>	<b>Stretched Feeling</b>	<b>Formulas</b>						
				<b>(1)</b>	<b>:</b>	<b>(2)</b>	<b>:</b>	<b>(3)</b>	<b>:</b>	<b>(4)</b>
<b>Example 8<sup>1</sup></b>	7	6.8	6.7	96	:	0.5	:	0.5	:	3
<b>Comparative Example 5<sup>2</sup></b>	3	6.0	2.3	96	:	0.5	:	0.5	:	3
<b>Example 9<sup>1</sup></b>	7	6.9	6.7	90	:	2.5	:	2.5	:	5
<b>Comparative Example 6<sup>2</sup></b>	1	6.3	2.4	90	:	2.5	:	2.5	:	5

<sup>1</sup> R: lauroyl group (number of carbons: 12)

<sup>2</sup> R: lauroyl group (number of carbons: 12) + myristoyl group (number of carbons: 14)

From Supplementary Table 2, it is apparent that those Examples having identical R groups for components (A), (B), and (C) are superior to the Comparative Examples in both foaming power and refreshed feeling.

The Examiner is requested to note that Oshimura et al. is related to JP 10-121091. The foaming power and refreshed feeling deficiencies described above are consistent with the deficiencies noted for JP 10-121091 in the paragraph bridging pages 1 and 2 of the application.

Based on the foregoing, it should be clear that the present invention is non-obvious in view of over Oshimura et al.

## CONCLUSION

Thus, it is believed that all rejections have been removed, and the present application is now in condition for allowance.

Reconsideration and early favorable action on the claims are earnestly solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: March 1 2010

By:   
Mark J. Henry  
Registration No. 36,162

1201 New York Avenue, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501